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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 09/832,926   | 04/12/2001  | Yushi Niwa           | 072982/0219         | 5238             |
| 22428  | 7590        | 03/22/2006           | EXAMINER            |                  |
| FOLEY AND LARDNER LLP<br>SUITE 500<br>3000 K STREET NW<br>WASHINGTON, DC 20007 |             |                      | SMITH, TRACI L      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3629                |                  |

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 09/832,926             |  | NIWA, YUSHI         |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Traci L. Smith         |  | 3629                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8,10-18,20-27 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8,10-18,20-27 and 29-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This action is in response to papers filed on October 25, 2005.

Claims 2, 9, 19 and 28 have been cancelled.

Claims 35-38 have been amended.

Claims 1,3-4, 8, 10-14, 18, 20-23, 27 and 29-31 have been amended.

Claims 1, 3-8, 10-18, 20-27 and 29-38 are rejected.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)). The following rejections are made as the claims are best understood by the examiner.

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2. Claims 1, 3, 8, 10, 18, 20, 27-29 and 35-38 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 5,948,040 DeLorme et al; Travel Reservation Information and Planning System. Hereinafter referred to as DeLorme.

3. As to claim 1 Delorme teaches **preparing a travel schedule based on locations, times and dates.**(Fig. 7B ref 705 and C. 6 l. 21-28).

- **searching parameters in order to schedule items according to time constraints**(C. 6 l. 57-60 and C. 7 l. 31-33).
- **specifying if information has been used**(C. 29 l. 27-28);
- **notifying the distributing unit of the information**(C. 29 l. 28-30).

4. As to claims 3, 10, 20 and 29 DeLorme teaches location of unit being used (Cl. 29 l. 27-28) storing locations identified by unit(C. 29 l. 15-18) and notification of completed travel.

5. As to claim 8 Delorme teaches **preparing a travel schedule based on locations, times and dates.**(Fig. 7B ref 705 and C. 6 l. 21-28.

**Identifying difference between arrival times and current location**(C. 78 Claim 3)

**Correction of arrival time based on the difference between current location and destination**(C. 41 l. 19-23).

**Distributing new arrival time schedule to unit**(C. 6 l. 57-60 and C. 7 l. 31-33)

6. **storing identifying information**(C. 14 l. 37-41)

7. **specifying if information has been used**(C. 29 l. 27-28);

**notifying the distributing unit of the information**(C. 29 l. 28-30).

8. As to claim 18 Delorme teaches **preparing a travel schedule based on locations, times and dates.**(Fig. 7B ref 705 and C. 6 I. 21-28.

**Detecting position of unit**(C. 10 I. 36-38).

**Comparing destination with current location**(C. 8 I. 36-38)

9. **Distributing information that relates to the units location**(Cl. 6 I. 57-60 C. and 7 I. 31-33)

10. **storing identifying information**(C. 14 I. 37-41)

11. **specifying if information has been used**(C. 29 I. 27-28);

12. **notifying the distributing unit of the information**(C. 29 I. 28-30).

13. As to claim 27 Delorme teaches a travel system with a  
schedule preparer(Fig. 7 B Ref 70 C. 6 I. 21-28)

position detector(C. 10 I. 35-38)

a tolerance table(C. 17 I. 34-36)

a calculator(C. 19 I. 22-25).

A destination(C. 19 I. 11-15)

And a data distributor(C. 6 I. 57-60; C. 7 I. 31-33).

14. As to claims 35-38 Delorme teaches several methods of distributing data over the internet and wirelessly(C. 64 I. 19-30).

### ***Claim Rejections - 35 USC § 103***

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claims 21 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,948,040 DeLorme et al; Travel Reservation Information and Planning System. Hereinafter referred to as DeLorme.

18. As to claims 21 and 30 Delorme teaches a scheduler containing an itinerary of the unit user(C. 19 l. 46-50) and updated the schedule when times are not meeting the initial times used to plan itinerary (c. 19 l. 51-54). DeLorme fails to teach calculation of a tolerance, however, it would have been obvious to one of ordinary skill in the art at the time of invention to that if the management system is finding a dinning option that still allows the traveler meet their flight that a calculation is taking place to determine if the time difference between the current time and the time needed to make the flight.

19. Claims 5-7, 12-17, 24-26 and 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,948,040 DeLorme et al; Travel Reservation Information and Planning System as applied to claims 1-3, 8-10, 18-20 and 27-29

above, and further in view of US Patent 6,639,550 Knockheart et al; Vehicle Information System. Hereinafter referred to as Knockheart.

20. As to claims 5-7, 15-17, 24-26 and 32-34 Delorme teaches a travel information distribution system that distributes digital information online. However DeLorme fails to teach the specific formats in which the information is distributed. Knockheart teaches sending information to the user as an email pager and /or telephone call. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Knockheart with DeLorme so as to have several options for the user to have preference of how they receive the information depending on the type unit they are using.

21. As to claims 12-14 Delorme teaches a travel information distribution system that uses differences in determining route information. However, Delorme fails to teach a tolerance calculation to determine the differences according to different factors. Knockheart teaches reducing and or increasing tolerance based on arrival at points on route; as well as allowable disparity with dead reckoning based on travel factors.(C3 I.38-42; C. 23 I. 31-38) Knockheart further teaches calculating a new arrival time based on current time and speed types(max/min). It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Knockheart with DeLorme so as to have set parameters for know when or not a user is on task.

22. Claims 4, 11, 22-23 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over over US Patent 5,948,040 DeLorme et al; Travel Reservation Information and Planning System as applied to claims 1-3, 8-10, 18-20 and 27-29

above, and further in view of US Patent 6,336,072 Takayama et al. Hereinafter referred to as Takayama.

23. As to claims 4, 11, 22 and 31 DeLorme teaches a travel information distribution system with a schedule table.(C. 26 I.32-37) However, DeLorme fails to teach requesting time frame for which distribution data is transmitted to the user. Takayama teaches conditions for which information is extracted and transmitted.

24. As to claim 23 Delorme teaches a travel information distribution system with a schedule table receiver(C. 26 I. 32-37). However, DeLorme fails to teach storing, comparing transmitting and renewing schedules according to different parameters. Takayama teaches a scheduler that determines if the user will make their destination using different modes of transportation and updating departure time if required to make scheduled destination.(C. 35 I. 50-60).

### ***Response to Arguments***

25. Applicant's arguments filed October 25, 2005 have been fully considered but they are not persuasive. As to applicants arguments against rejections under 35 USC 102 applicant argues with respect to claim 1 that Delorme fails to teach a specifier with an input device for identifying a location of a user. Examiner notes that C. 29 I.28-30 identifies that a users location is identified by a GPS or equivalent/alternative means. The satellite signals defining location are automatically identified when employing the use of the GPS. Applicant does not specify steps in which location is identified. With respect to claim 3 applicant sets for similar arguments regarding a "place specifier".



Examiner asserts the same logic is applied to the place specifier as to a input device for identifying a users location.

26. As to applicants arguments against rejections under 35 USC 103 applicant argues that the combination fails to teach a calculator for calculating tolerances.

Examiner identifies a calculator which uses travel mode/time to determine if user is going to make the next segment of their planned travel. What the tolerance or time calculation is used for is does not patentably distinguish the current claims over the prior art. The same reasoning is applied to applicants arguments regarding claims 12-14 use of the tolerances is not patentable.

27. The examiner further notes in response to applicants arguments that the limitations of the functions of the **system/apparatus** or what the **system/apparatus** does, i.e.

"wherein the data repository is accessible by the customer in order to determine a delivery status of the package, wherein the mobile communication unit automatically transmits the radiation signal to the gateway", these carry no patentable weight in an apparatus claim. Apparatus claims should cover what a device is or structures or structural elements, not what a device does. See *Hewlett-Packard Co. vs. Bausch & Lomb Inc.*, 909 F.2d 1464, 1469, 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). The examiner asserts that the systems and apparatus contain the same structures and are capable of performing the functions as recited in applicants inventions.

28. Rejections under 35 U.S.C 112 have been withdrawn.

***Conclusion***

29. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

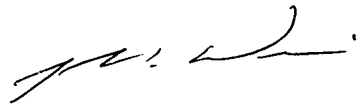
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Traci L. Smith whose telephone number is 571-272-6809. The examiner can normally be reached on Monday-Thursday 6:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TLS



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